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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,055	01/10/2006	Kenichi Makino	277006US6PCT	5660
22850	7590	03/02/2010		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER CHU, KIM KWOK	
			ART UNIT	PAPER NUMBER
			2627	
			NOTIFICATION DATE	DELIVERY MODE
			03/02/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/564,055	<b>Applicant(s)</b> MAKINO ET AL.	
	<b>Examiner</b> Kim-Kwok CHU	<b>Art Unit</b> 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed on 12/3/2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 and 10-14 is/are allowed.
- 6) ☒ Claim(s) 6-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/10/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

*The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.*

2. Claims 6-8 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 6, lines 2 and 3, the phase "storing and associating identification information of contents data to be reproduced ..... at a time of reproduction" is vague because there is no elements/means which supports the claimed "content data". In other words, it is not clear what physical means containing the "content data" so that it can be stored and reproduced.

Similarly, the claimed "environmental variables" is also indefinite as it is not clear how the variables are obtained.

Since the claimed "content data" and "environmental variable" are indefinite, the steps of associating, calculating and selecting are also indefinite because whose steps can be performed manually if no physical elements/means is used.

The claims not specifically mentioned above are rejected because these claims are dependent on the rejected base claim.

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***Allowable Subject Matter***

3. Claims 6-8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

4. Claims 1-5 and 10-14 are allowable over prior art.

5. The following is an Examiner's statement of reasons for the indication of allowable subject matter based on Amendment filed on December 3, 2009:

As in claims 1 and 10, the prior art of record fails to teach or fairly suggest an information recording carrier having following feature:

the controller calculates the similarity value based on the equation:

$$S_n = W_c * 4\sqrt{((x-x_n)^2 + (y-y_n)^2)} + W_m * |m-m_n| + W_t * |t-t_n| + W_p * |p-p_n|$$

where  $S_n$  is the calculated similarity value,  $W_c$  is a weight factor of location,  $x$  is a present longitude,  $x_n$  is nth history of longitude,  $y$  is a present latitude,  $y_n$  is nth history of latitude,  $W_m$  is a weight factor of time,  $m$  is a current time,  $m_n$  is nth history of time,  $W_t$  is a weight factor of temperature,  $t$  is a current temperature,  $t_n$  is nth history of temperature,  $W_p$

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is a weight factor of pressure,  $p$  is a current pressure, and  $p_n$  is  $n$ th history of pressure.

The features indicated above, in combination with the other elements of the claims, are not anticipated by, nor made obvious over, the prior art of record.

### ***Related Prior Art***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Abe et al. (7,650,287) is pertinent because Abe teaches a music search system having a location acquisition means.

### ***Response to Remarks***

7. Applicant's Amendment and Remarks filed on December 3, 2009 have been fully considered.

A new rejection which was inadvertently missed is made based on independent Claim 6 which contains unclear language problems. Accordingly, the amended Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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8. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kim CHU whose telephone number is (571) 272-7585 between 9:30 am to 6:00 pm, Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen, can be reached on (571) 272-7579.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished application is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9191 (toll free).

/Kim-Kwok CHU/

Examiner AU2627  
February 23, 2010  
(571) 272-7585

/HOA T NGUYEN/

Supervisory Patent Examiner, Art Unit 2627